

## **REMARKS**

The Office Action dated November 19, 2004 has been received and carefully noted. The above amendments to the specification, drawings, claims, and the following remarks, are submitted as a full and complete response thereto.

The specification is amended to reflect the related application information for the provisional application that was filed on February 22, 2001. In the drawings, Figures 1 and 8 are amended to obviate the objections to the drawings. The attached replacement sheets replace figures 1 and 8. Claims 1, 2, 6 and 10 are amended to clearly recite and distinctly claim the subject matter of the invention. Claim 8 is cancelled without prejudice. A Terminal Disclaimer is submitted. No new matter is added. Claims 1-7 and 9-13 are respectfully submitted for consideration.

The Office Action objects to the drawings. Specifically the Office Action objects to Fig. 1 and Fig. 8. As discussed above the attached replacement sheets of Fig. 1 and Fig. 8 correct the informalities discussed in the Office Action. Accordingly, withdrawal of the objection to the drawings is respectfully requested.

The Office Action objects to the specification. Specifically, the Office Action states that the attempt to incorporate subject matter into this application by the U.S. Provisional Patent Application filed on February 22, 2001 is improper because the Application Number is missing. In addition, the Office Action states that the description

**IN THE DRAWINGS:**

The attached sheets of drawings include changes to Figures 1 and 8. The attached sheets, including Figures 1 and 8 replace the original sheets including Figures 1 and 8.

Attachment: Replacement Sheets

of Fig. 42 in the Brief Description of Drawings (page 8, line 4) is improper since there is no such Fig. 42 in the drawings.

Applicant respectfully submits that the amendments to paragraphs [0001] and [0054] obviate the objection to the specification. Applicant is not aware of any other errors present in the specification. Accordingly, withdrawal of the objection to the specification is respectfully requested.

The Office Action objects to claims 1, 2, 9 and 10. Specifically, the Office Action requests that consistent language be used. Claims 1, 2, 9 and 10 are amended to consistently use the term “incoming data packet”. Accordingly, withdrawal of the objection to the claims is respectfully requested.

The Office Action provisionally rejects claim 6 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending U.S. Patent Application No. 09/877,010 ('010). The Office Action asserts that although the conflicting claims are not identical, they are not patentably distinct from each other.

Applicants respectfully submit the attached Terminal Disclaimer in compliance with 37 CFR 1.321(c) to overcome the provisional rejection based on non-statutory double-patenting. Accordingly, withdrawal of the obviousness type double patenting rejection of claim 6 is respectfully requested.

The Office Action rejects claims 2, 6, 8 and 10 under 35 U.S.C. §112 second paragraph. It is respectfully submitted that the rejection of claim 8 is moot in light of the cancellation of claim 8.

Regarding claim 2, the Office Action states that the recitation “said step of modifying the header of said incoming packet” is vague and indefinite because it is unclear whether the limitation refers to the step of “modifying the header of said incoming packet” in line 10 or in line 14 of claim 1. The Office Action similarly rejects claim 10. It is respectfully submitted that amended claims 2 and 10 particularly point out and distinctly claim that claims 2 and 10 refer to the modifying step of modifying said header of said incoming data packet and forwarding said incoming data packet.

Regarding claim 6, the Office Action states that the recitation “said switch” is vague and indefinite because it is unclear whether the limitation refers “first type switch” or “second type switch”. Claim 6 is amended to add the term “network” before “switch” because the switch referred to is the network switch.

Accordingly, withdrawal of the rejection under 35 U.S.C §112 second paragraph is respectfully requested.

The Office Action rejects claim 6 under 35 U.S.C §102(e) as being anticipated by U.S. Patent No. 6,104,696 to Kadambi et al. (Kadambi). This rejection is respectfully traversed.

Claims 6, from which claim 7 depends, recites a network switch for network communications comprising a first data port interface, said first data port interface

supporting at least one data port transmitting and receiving data at a first data rate. The network switch further comprises a second data port interface, said second data port interface supporting at least one data port transmitting and receiving data at a second data rate, different from the first data rate. The network switch further comprises a memory communicating with said first data port interface and said second data port interface. The network switch further comprises a memory management unit, for communicating data from said first data port interface and said second data port interface and said memory. The network switch further comprises a communication channel, with the communication channel communicating data and messaging information between said first data port interface, said second data port interface, and said memory management unit. Further, said first data port interface is configured to communicate with first type switches at said first data rate and said second data port interface is configured to communicate with second type switches at said second data rate and said network switch is configured to resolve a stack tag from a header of an incoming data packet and forwards the incoming data packet to one of said first and second type switches based on the resolved stack tag. The network switch is configured to modify said header of said incoming data packet before forwarding the incoming data packet to one of said higher capacity network switches.

Kadambi discloses a method for sending packets between trunk ports of network switches. Kadambi discloses in col. 18 lines 2-10, modifying the incoming packet before forwarding the packet. If the results of the destination search is an L3 interface MAC

address, then an L3 search is performed of an L3 table within ARL/L3 table 21. If the L3 search is successful, then the packet is modified according to packet rules.

As discussed above, claim 6 recites modifying the header of the incoming packet before forwarding. The incoming packet is forwarded to one of the plurality of higher capacity network switches. This feature is neither disclosed or suggested in Kadambi.

It is respectfully submitted that Kadambi fails to disclose or suggest all of the features recited in claim 6. Accordingly, withdrawal of the rejection of claim 6 under 35 U.S.C. §102(e) is respectfully requested.

The Office Action rejects claims 1-5 and 7-13 under 35 U.S.C §103(a) as being obvious over U.S. Patent No. 6,104,696 to Kadambi et al. (Kadambi). This rejection is respectfully traversed. It is respectfully submitted that the rejection of claim 8 is moot in light of the cancellation of claim 8.

It is respectfully submitted that Kadambi can not preclude patentability of the present application under 35 U.S.C. 103. 35 U.S.C §103(c) states: “subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

It is respectfully submitted that Kadambi and the present invention were commonly owned by / subject to assignment to Broadcom Corporation at the time the

present invention was made. In addition, the present application claims priority from United States Provisional Patent Application Serial No. 60/210,510, filed on June 9, 2000 and United States Provisional Patent Application Serial No. 60/270,158, filed on February 22, 2001. Thus, Kadambi does not qualify as prior art under 35 U.S.C §102, (a), (b), (c) or (d).

Therefore, in accordance with 35 U.S.C §103(c), Kadambi can not preclude patentability of the present application under 35 U.S.C §103.

Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

It is respectfully requested that all of claims 1-7 and 9-13 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Terminal Disclaimer  
Replacement Drawing Sheets